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SUPERIOR COURT  
YAVAPAI COUNTY, ARIZONA  
2009 JAN 28 PM 3:57  
JEANNE HICKS, CLERK  
BY: Beth Blanton

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,	)	No. CR 2008-1339
	)	
Plaintiff,	)	Div. 6
	)	
vs.	)	DEFENDANT'S MOTION FOR
	)	REEXAMINATION OF
STEVEN CARROLL DEMOCKER,	)	CONDITIONS OF RELEASE
	)	
Defendant.	)	(Oral Argument Requested)
	)	

Defendant Steven C. DeMocker, by and through counsel, hereby requests that this court reexamine his conditions of release, pursuant to Ariz. R. Crim. Pro. 7.4(b) and A.R.S. § 13-3967(G). Mr. DeMocker also requests that the Court provide notice to any person having declared victim status in the case in advance of any order amending conditions pursuant to A.R.S. §§ 13-3967(G) and 13-4406.

**BACKGROUND**

On December 23 and 24, 2008 and January 13 and 15, 2009, the Court took evidence and heard argument to determine if the State had met its burden with respect to

1 “proof evident” or “presumption great” existing that Mr. DeMocker committed the  
2 offenses for which he is charged. On January 22, 2009, the Court found that the State  
3 had not met its burden and that therefore Mr. DeMocker is entitled to bail under A.R.S.  
4 § 13-3962. On that same date, this Court set bond at \$2,500,000, to be posted in cash or  
5 a secured appearance bond through a bail bondsman.

6 On application, Mr. DeMocker is entitled to have the conditions of release  
7 reviewed by the judicial officer that imposed them and the Court may amend the order  
8 to employ different or additional conditions of release, including a reduction in bail.  
9 A.R.S. § 13-3967(G). Mr. DeMocker also requests that the Court notify any person  
10 who has declared victim status as is required under A.R.S. §§ 13-3967(G) and 13-4406.  
11 Material facts not previously presented to the Court regarding the DeMocker’s financial  
12 ability to post a bond, the availability of electronic monitoring, and a further explanation  
13 of the allegations that Mr. DeMocker was preparing to flee prior to his arrest are  
14 available and discussed herein. Ariz. R. Crim. P. 7.4(b). Mr. DeMocker hereby  
15 requests that this Court reduce his bond amount and consider setting additional  
16 conditions of release to include electronic monitoring to be paid by Mr. DeMocker.

## 17 **ARGUMENT**

### 18 **I. The Purpose of Bail is to Secure Mr. DeMocker’s Appearance.**

19 Pursuant to A.R.S. § 13-3961(B), the purposes of bail and conditions of release  
20 are to assure the appearance of the accused, protect against the intimidation of  
21 witnesses, and protect the safety of the victim, any other person, or the community. *See*  
22 A.R.S. § 13-3961(B) 1-3. In this case, there are no issues with respect to the  
23 intimidation of witnesses or protection of anyone or the community. Therefore, the  
24 proper purpose of bail and conditions of release are to assure the appearance of Mr.  
25 DeMocker. As the Arizona Supreme Court has held:

26  
27 Bail is exacted for the sole purpose of securing the attendance of the  
28 defendant in court at all times when his presence may be lawfully

1 required, and his surrendering himself in execution of any legal judgment  
2 that may be pronounced against him, and any bail fixed at more than is  
3 necessary to secure that appearance is excessive within the meaning of the  
4 constitution.

5 *Gusick v. Boies*, 71 Ariz. 233, 236, 233 P.2d 446, 448 (1951) (internal  
6 citations omitted). Excessive bail is likewise “not to be required for the purpose  
7 of preventing the prisoner from being admitted to bail.” *Id.* (citations omitted).

## 8 **II. This Court Should Lower the Bond Amount.**

9 A.R.S. § 13-3967 (B)<sup>1</sup> outlines the appropriate considerations for the Court to  
10 use in determining the method of release or the amount of bond. These considerations  
11 include the following: the views of the victim; the nature and circumstances of the  
12 offense; the weight of the evidence against the accused; the accused’s family ties,  
13 employment, financial resources, character and mental condition; the results of any drug  
14 test; whether the accused is using any illegal substances; whether the accused violated  
15 certain drug offense; the length of residence in the community; the accused’s record of  
16 arrests and convictions; and the accused’s record of appearance at court proceedings or  
17 of flight to avoid prosecution or failure to appear.

18 These factors weigh heavily in favor of substantially reducing Mr. DeMocker’s  
19 bond amount from \$2,500,000. The Court has found that the weight of the evidence  
20 against Mr. DeMocker does not rise to the level of proof evident or presumption great.  
21 The Court also found that no motive for the crime is apparent even after hearing four  
22 days of testimony in a *Simpson* hearing and after a thorough review of the grand jury  
23 transcript. Mr. DeMocker has lived in Prescott for over 20 years, and owns a home.  
24 His minor daughter, Charlotte DeMocker, lives with him. He has significant family  
25 ties, and his family has shown a strong presence and support for Mr. DeMocker  
26 throughout these proceedings. Mr. DeMocker has been and still is professionally

27  
28 <sup>1</sup> Because a *Simpson* determination has been made that Mr. DeMocker is entitled to bail, A.R.S. § 13-3967 applies.

1 employed by UBS as a financial advisor. There are no allegations or suggestions  
2 involving illegal substance abuse nor are any drug offenses charged. Mr. DeMocker has  
3 never been arrested before and has no prior convictions. All of these factors strongly  
4 favor a reduced bond amount.

5       The critical determination for this Court is securing Mr. DeMocker's appearance.  
6 At the *Simpson* hearing on this matter the Court heard evidence that Mr. DeMocker was  
7 the sole suspect from the time of the victim's death in July, 2008 until his arrest almost  
8 four months later in October. As the Court found in its *Simpson* order, there was  
9 evidence that indicated some planning efforts by Mr. DeMocker to flee. However, as  
10 the Court noted, this planning was arguably consistent with Mr. DeMocker's innocence.  
11 Perhaps more importantly for the Court's determination of bond, Mr. DeMocker did not  
12 flee. Even though he believed he was the sole suspect for almost four months and even  
13 though the Yavapai County Sheriff's Office announced in early October to the press  
14 that an arrest was imminent, Mr. DeMocker was arrested while sitting at his desk at  
15 work. His past behavior in not fleeing is reflective of what the Court can expect of his  
16 future behavior. Mr. DeMocker and his family are committed to fighting these charges.

17       In terms of financial resources, Mr. DeMocker has a daughter in college and a  
18 minor daughter living in Prescott. He is solely responsible for their financial support.  
19 He has also been unable to earn an income while incarcerated. Mr. DeMocker and his  
20 family are paying substantial monies in legal fees and expenses for his defense. Mr.  
21 DeMocker and his family are without the financial resources to afford the bond set by  
22 the Court, and ask the Court to consider a lower amount after hearing about their  
23 circumstances in more detail.

24       All of these considerations - the weight of the evidence; Mr. DeMocker's family  
25 ties, his employment, financial resources, character and mental condition; the absence of  
26 any illegal drug issues; the length of Mr. DeMocker's residence in the community; his  
27 lack of any prior arrests or convictions; and his staying put during four months of  
28

1 intensive investigation and prejudicial publicity in the face of an impending arrest –  
2 weigh in favor of a reduction in the amount of bond. If the Court were to lower the  
3 bond amount to an amount Mr. DeMocker and his family can reasonably afford and, if  
4 it feels it necessary, place Mr. DeMocker on electronic monitoring, the purposes of  
5 bond would be met and the Court will be assured of Mr. DeMocker's appearance.  
6

7 **III. The Court May Order Electronic Monitoring as a Condition of**  
8 **Release to Assure Mr. DeMocker's Future Appearance.**

9 Pursuant to A.R.S. § 13-3967(D), the Court may, after giving notice to the  
10 victim, impose any other conditions deemed reasonably necessary to assure appearance  
11 as required ... ." A.R.S. § 13-3967(D). Mr. DeMocker and his family have carefully  
12 investigated the availability of GPS monitoring and have located a local provider,  
13 Arizona Detention Services. (See Exhibit A). Arizona Detention Services offers GPS  
14 tracking through a program called E-Cell, Inc. E-Cell, Inc. immediately notifies the  
15 Court or the Court's designee in the event that Mr. DeMocker violates any geographical  
16 restrictions set as conditions of his release. Mr. DeMocker and his family agree to pay  
17 all the costs of GPS monitoring set by Arizona Detention Services. This will also save  
18 the County the costs of incarcerating Mr. DeMocker. GPS monitoring will help  
19 reassure the Court of Mr. DeMocker's future appearance, consistent with his previous  
20 behavior in this case.

21 **CONCLUSION**

22 For these reasons Mr. DeMocker respectfully requests that the Court order the  
23 following:

- 24 1. Revoking the previously ordered \$2,500,000 cash or secured appearance  
25 bond through a bail bondsman;  
26 2. Setting bond at a reasonable, reduced amount, to be posted with cash or a  
27 secured appearance bond through a bail bondsman; and  
28

1 3. GPS electronic monitoring by ankle bracelet shall commence upon Mr.  
2 DeMocker's release through E-Cell, Inc, with all costs to be paid by Mr.  
3 DeMocker. In the event Mr. DeMocker leaves the greater Prescott, Arizona  
4 area without prior permission of the Court or fails to appear at any scheduled  
5 hearing, E-Cell, Inc. shall promptly notify Judge Lindberg's chambers or his  
6 designee of that fact.

7 DATED this 28th day of January, 2009.

8  
9 By: 

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18 Attorneys for Defendant

19 ORIGINAL of the foregoing filed  
20 this 28<sup>th</sup> day of January, 2009, with:

21 Jeanne Hicks,  
22 Clerk of the Court  
23 Yavapai County Superior Court  
24 120 S. Cortez  
25 Prescott, AZ 86303

26 COPIES of the foregoing hand delivered  
27 this 28<sup>th</sup> day of January, 2009, to:

28 The Hon. Thomas B. Lindberg  
Judge of the Superior Court  
Division Six  
120 S. Cortez  
Prescott, AZ 86303

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